

SCHEDULES

SCHEDULE 1

Section 1.

MODIFICATION OF ACT FOR CERTAIN CONTRACTS

Preliminary

- 1 (1) This Schedule modifies this Act as it applies to contracts of sale of goods made on certain dates.
- (2) In this Schedule references to sections are to those of this Act and references to contracts are to contracts of sale of goods.
- (3) Nothing in this Schedule affects a contract made before 1 January 1894.

Section 11: condition treated as warranty

- 2 In relation to a contract made before 22 April 1967 or (in the application of this Act to Northern Ireland) 28 July 1967, in section 11(4) after " or part of them," insert " or where the contract is for specific goods, the property in which has passed to the buyer, ".

Section 12: implied terms about title etc.

- 3 In relation to a contract made before 18 May 1973 substitute the following for section 12: —

“12 Implied terms about title, etc.

In a contract of sale, unless the circumstances of the contract are such as to show a different intention, there is—

- (a) an implied condition on the part of the seller that in the case of a sale he has a right to sell the goods, and in the case of an agreement to sell he will have such a right at the time when the property is to pass ;
- (b) an implied warranty that the buyer will have and enjoy quiet possession of the goods ;
- (c) an implied warranty that the goods will be free from any charge or encumbrance in favour of any third party, not declared or known to the buyer before or at the time when the contract is made.”

Section 13: sale by description

- 4 In relation to a contract made before 18 May 1973, omit section 13(3).

Status: This is the original version (as it was originally enacted).

Section 14: quality or fitness (i)

5 In relation to a contract made on or after 18 May 1973 and before the appointed day, substitute the following for section 14: —

“14 Implied terms about quality or fitness.

- (1) Except as provided by this section and section 15 below and subject to any other enactment, there is no implied condition or warranty about the quality or fitness for any particular purpose of goods supplied under a contract of sale.
- (2) Where the seller sells goods in the course of a business, there is an implied condition that the goods supplied under the contract are of merchantable quality, except that there is no such condition—
 - (a) as regards defects specifically drawn to the buyer's attention before the contract is made ; or
 - (b) if the buyer examines the goods before the contract is made, as regards defects which that examination ought to reveal.
- (3) Where the seller sells goods in the course of a business and the buyer, expressly or by implication, makes known to the seller any particular purpose for which the goods are being bought, there is an implied condition that the goods supplied under the contract are reasonably fit for that purpose, whether or not that is a purpose for which such goods are commonly supplied, except where the circumstances show that the buyer does not rely, or that it is unreasonable for him to rely, on the seller's skill or judgment.
- (4) An implied condition or warranty about quality or fitness for a particular purpose may be annexed to a contract of sale by usage.
- (5) The preceding provisions of this section apply to a sale by a person who in the course of a business is acting as agent for another as they apply to a sale by a principal in the course of a business, except where that other is not selling in the course of a business and either the buyer knows that fact or reasonable steps are taken to bring it to the notice of the buyer before the contract is made.
- (6) Goods of any kind are of merchantable quality within the meaning of subsection (2) above if they are as fit for the purpose or purposes for which goods of that kind are commonly bought as it is reasonable to expect having regard to any description applied to them, the price (if relevant) and all the other relevant circumstances.
- (7) In the application of subsection (3) above to an agreement for the sale of goods under which the purchase price or part of it is payable by instalments any reference to the seller includes a reference to the person by whom any antecedent negotiations are conducted; and section 58(3) and (5) of the Hire-Purchase Act 1965, section 54(3) and (5) of the Hire-Purchase (Scotland) Act 1965 and section 65(3) and (5) of the Hire-Purchase Act (Northern Ireland) 1966 (meaning of antecedent negotiations and related expressions) apply in relation to this subsection as in relation to each of those Acts, but as if a reference to any such agreement were included in the references in subsection (3) of each of those sections to the agreements there mentioned.”

Status: This is the original version (as it was originally enacted).

Section 14: quality or fitness (ii)

6 In relation to a contract made before 18 May 1973 substitute the following for section 14:—

“14 Implied terms about quality or fitness.

- (1) Subject to this and any other Act, there is no implied condition or warranty about the quality or fitness for any particular purpose of goods supplied under a contract of sale.
- (2) Where the buyer, expressly or by implication, makes known to the seller the particular purpose for which the goods are required, so as to show that the buyer relies on the seller's skill or judgment, and the goods are of a description which it is in the course of the seller's business to supply (whether he is the manufacturer or not), there is an implied condition that the goods will be reasonably fit for such purpose, except that in the case of a contract for the sale of a specified article under its patent or other trade name there is no implied condition as to its fitness for any particular purpose.
- (3) Where goods are bought by description from a seller who deals in goods of that description (whether he is the manufacturer or not), there is an implied condition that the goods will be of merchantable quality ; but if the buyer has examined the goods, there is no implied condition as regards defects which such examination ought to have revealed.
- (4) An implied condition or warranty about quality or fitness for a particular purpose may be annexed by the usage of trade.
- (5) An express condition or warranty does not negative a condition or warranty implied by this Act unless inconsistent with it”

Section 15: sale by sample

7 In relation to a contract made before 18 May 1973, omit section 15(3).

Section 22: market overt

8 In relation to a contract under which goods were sold before 1 January 1968 or (in the application of this Act to Northern Ireland) 29 August 1967, add the following paragraph at the end of section 22(1):—

“Nothing in this subsection affects the law relating to the sale of horses.”

Section 25: buyer in possession

9 In relation to a contract under which a person buys or agrees to buy goods and which is made before the appointed day, omit section 25(2).

Section 35: acceptance

10 In relation to a contract made before 22 April 1967 or (in the application of this Act to Northern Ireland) 28 July 1967, in section 35(1) omit " (except where section 34 above otherwise provides) ".

Status: This is the original version (as it was originally enacted).

Section 55: exclusion of implied terms (i)

11 In relation to a contract made on or after 18 May 1973 and before 1 February 1978 substitute the following for section 55: —

“55 Exclusion of implied terms.

- (1) Where a right, duty or liability would arise under a contract of sale of goods by implication of law, it may be negated or varied by express agreement, or by the course of dealing between the parties, or by such usage as binds both parties to the contract, but the preceding provision has effect subject to the following provisions of this section.
- (2) An express condition or warranty does not negative a condition or warranty implied by this Act unless inconsistent with it.
- (3) In the case of a contract of sale of goods, any term of that or any other contract exempting from all or any of the provisions of section 12 above is void.
- (4) In the case of a contract of sale of goods, any term of that or any other contract exempting from all or any of the provisions of section 13, 14 or 15 above is void in the case of a consumer sale and is, in any other case, not enforceable to the extent that it is shown that it would not be fair or reasonable to allow reliance on the term.
- (5) In determining for the purposes of subsection (4) above whether or not reliance on any such term would be fair or reasonable regard shall be had to all the circumstances of the case and in particular to the following matters—
 - (a) the strength of the bargaining positions of the seller and buyer relative to each other, taking into account, among other things, the availability of suitable alternative products and sources of supply ;
 - (b) whether the buyer received an inducement to agree to the term or in accepting it had an opportunity of buying the goods or suitable alternatives without it from any source of supply;
 - (c) whether the buyer knew or ought reasonably to have known of the existence and extent of the term (having regard, among other things, to any custom of the trade and any previous course of dealing between the parties) ;
 - (d) where the term exempts from all or any of the provisions of section 13, 14 or 15 above if some condition is not complied with, whether it was reasonable at the time of the contract to expect that compliance with that condition would be practicable;
 - (e) whether the goods were manufactured, processed, or adapted to the special order of the buyer.
- (6) Subsection (5) above does not prevent the court from holding, in accordance with any rule of law, that a term which purports to exclude or restrict any of the provisions of section 13, 14 or 15 above is not a term of the contract.
- (7) In this section " consumer sale " means a sale of goods (other than a sale by auction or by competitive tender) by a seller in the course of a business where the goods—
 - (a) are of a type ordinarily bought for private use or consumption ; and

Status: This is the original version (as it was originally enacted).

- (b) are sold to a person who does not buy or hold himself out as buying them in the course of a business.
- (8) The onus of proving that a sale falls to be treated for the purposes of this section as not being a consumer sale lies on the party so contending.
- (9) Any reference in this section to a term exempting from all or any of the provisions of any section of this Act is a reference to a term which purports to exclude or restrict, or has the effect of excluding or restricting the operation of all or any of the provisions of that section, or the exercise of a right conferred by any provision of that section, or any liability of the seller for breach of a condition or warranty implied by any provision of that section.
- (10) It is hereby declared that any reference in this section to a term of a contract includes a reference to a term which although not contained in a contract is incorporated in the contract by another term of the contract.
- (11) Nothing in this section prevents the parties to a contract for the international sale of goods from negating or varying any right, duty or liability which would otherwise arise by implication of law under sections 12 to 15 above.
- (12) In subsection (11) above "contract for the international sale of goods" means a contract of sale of goods made by parties whose places of business (or, if they have none, habitual residences) are in the territories of different States (the Channel Islands and the Isle of Man being treated for this purpose as different States from the United Kingdom) and in the case of which one of the following conditions is satisfied:—
 - (a) the contract involves the sale of goods which are at the time of the conclusion of the contract in the course of carriage or will be carried from the territory of one State to the territory of another ; or
 - (b) the acts constituting the offer and acceptance have been effected in the territories of different States ; or
 - (c) delivery of the goods is to be made in the territory of a State other than that within whose territory the acts constituting the offer and the acceptance have been effected."

Section 55: exclusion of implied terms (ii)

- 12 In relation to a contract made before 18 May 1973 substitute the following for section 55:—

“55 Exclusion of implied terms.

Where a right, duty or liability would arise under a contract of sale by implication of law, it may be negated or varied by express agreement, or by the course of dealing between the parties, or by such usage as binds both parties to the contract.”

Section 56: conflict of laws

- 13 (1) in relation to a contract made on or after 18 May 1973 and before 1 February 1978 substitute for section 56 the section set out in sub-paragraph (3) below.

Status: This is the original version (as it was originally enacted).

- (2) In relation to a contract made otherwise than as mentioned in sub-paragraph (1) above, ignore section 56 and this paragraph.
- (3) The section mentioned in sub-paragraph (1) above is as follows: —

“56 Conflict of laws.

- (1) Where the proper law of a contract for the sale of goods would, apart from a term that it should be the law of some other country or a term to the like effect, be the law of any part of the United Kingdom, or where any such contract contains a term which purports to substitute, or has the effect of substituting, provisions of the law of some other country for all or any of the provisions of sections 12 to 15 and 55 above, those sections shall, notwithstanding that term but subject to subsection (2) below, apply to the contract.
- (2) Nothing in subsection (1) above prevents the parties to a contract for the international sale of goods from negating or varying any right, duty or liability which would otherwise arise by implication of law under sections 12 to 15 above.
- (3) In subsection (2) above "contract for the international sale of goods " means a contract of sale of goods made by parties whose places of business (or, if they have none, habitual residences) are in the territories of different States (the Channel Islands and the Isle of Man being treated for this purpose as different States from the United Kingdom) and in the case of which one of the following conditions is satisfied: —
- (a) the contract involves the sale of goods which are at the time of the conclusion of the contract in the course of carriage or will be carried from the territory of one State to the territory of another ; or
 - (b) the acts constituting the offer and acceptance have been effected in the territories of different States ; or
 - (c) delivery of the goods is to be made in the territory of a State other than that within whose territory the acts constituting the offer and the acceptance have been effected.”

Section 61(1): definition of " business " (i)

- 14 In relation to a contract made on or after 18 May 1973 and before 1 February 1978, in the definition of "business" in section 61(1) for " or local or public authority " substitute " , local authority or statutory undertaker ".

Section 61(1): definition of " business " (ii)

- 15 In relation to a contract made before 18 May 1973 omit the definition of " business " in section 61(1).

SCHEDULE 2

Section 63.

CONSEQUENTIAL AMENDMENTS

War Risks Insurance Act 1939 (2 & 3 Geo. 6 c.57)

- 1 In section 15(1)(e) of the War Risks Insurance Act 1939 for " section sixty-two of the Sale of Goods Act 1893 " substitute " section 61 of the Sale of Goods Act 1979 ".

Law Reform (Frustrated Contracts) Act 1943 (6 & 7 Geo. 6 c. 40)

- 2 In section 2(5)(c) of the Law Reform (Frustrated Contracts Act 1943 for "section seven of the Sale of Goods Act 1893" substitute " section 7 of the Sale of Goods Act 1979 "

Frustrated Contracts Act (Northern Ireland) 1947 (c.2)

- 3 In section 2(5)(c) of the Frustrated Contracts Act (Northern Ireland) 1947 for "section seven of the Sale of Goods Act 1893" substitute " section 7 of the Sale of Goods Act 1979 ".

Hire-Purchase Act 1964 (c. 53)

- 4 In section 27(5) of the Hire-Purchase Act 1964 (as originally enacted and as substituted by Schedule 4 to the Consumer Credit Act 1974)—
- (a) in paragraph (a) for " section 21 of the Sale of Goods Act 1893" substitute " section 21 of the Sale of Goods Act 1979 ";
 - (b) in paragraph (b) for " section 62(1) of the said Act of 1893 " substitute " section 61(1) of the said Act of 1979 ".

Hire-Purchase Act 1965 (c. 66)

- 5 In section 20 of the Hire-Purchase Act 1965—
- (a) in subsection (1) for "Section 11(1)(c) of the Sale of Goods Act 1893 " substitute " Section 11(4) of the Sale of Goods Act 1979 ";
 - (b) in subsection (3) for " sections 12 to 15 of the Sale of Goods Act 1893" substitute " sections 12 to 15 of the Sale of Goods Act 1979 ".
- 6 In section 54 of the Hire-Purchase Act 1965 for " section 25(2) of the Sale of Goods Act 1893 " substitute " section 25(1) of the Sale of Goods Act 1979 ".
- 7 In Section 58(1) of the Hire-Purchase Act 1965 for " the Sale of Goods Act 1893 " substitute " the Sale of Goods Act 1979 ".

Hire-Purchase (Scotland) Act 1965 (c. 67)

- 8 In section 20 of the Hire-Purchase (Scotland) Act 1965 for " 1893 " substitute " 1979 ".
- 9 In section 50 of the Hire-Purchase (Scotland) Act 1965 for "section 25(2) of the Sale of Goods Act 1893 " substitute " section 25(1) of the Sale of Goods Act 1979 ".
- 10 In section 54(1) of the Hire-Purchase (Scotland) Act 1965 for "the Sale of Goods Act 1893" substitute " the Sale of Goods Act 1979 ".

Status: This is the original version (as it was originally enacted).

Hire-Purchase Act (Northern Ireland) 1966 (c. 42)

- 11 In section 20 of the Hire-Purchase Act (Northern Ireland) 1966—
- (a) in subsection (1) for " Section 11(1)(c) of the Sale of Goods Act 1893 " substitute " Section 11(4) of the Sale of Goods Act 1979 ";
 - (b) in subsection (3) for " 1893 " substitute " 1979 ".
- 12 In section 54 of the Hire-Purchase Act (Northern Ireland) 1966 for "section 25(2) of the Sale of Goods Act 1893" substitute " section 25(1) of the Sale of Goods Act 1979 ".
- 13 In section 62(5) of the Hire-Purchase Act (Northern Ireland) 1966 (as originally enacted and as substituted by Schedule 4 to the Consumer Credit Act 1974)—
- (a) in paragraph (a) for " 1893 " substitute " 1979 ";
 - (b) in paragraph (b) for " section 62(1) of the said Act of 1893 " substitute " section 61(1) of the said Act of 1979 ".
- 14 In section 65(1) of the Hire-Purchase Act (Northern Ireland) 1966 for " the Sale of Goods Act 1893 " substitute " the Sale of Goods Act 1979 ".

Uniform Laws on International Sales Act 1967 (c. 45)

- 15 For section 1(4) of the Uniform Laws on International Sales Act 1967 substitute the following: —
- “(4) In determining the extent of the application of the Uniform Law on Sales by virtue of Article 4 thereof (choice of parties)—
- (a) in relation to a contract made before 18 May 1973, no provision of the law of any part of the United Kingdom shall be regarded as a mandatory provision within the meaning of that Article ;
 - (b) in relation to a contract made on or after 18 May 1973 and before 1 February 1978, no provision of that law shall be so regarded except sections 12 to 15, 55 and 56 of the Sale of Goods Act 1979 ;
 - (c) in relation to a contract made on or after 1 February 1978, no provision of that law shall be so regarded except sections 12 to 15 of the Sale of Goods Act 1979”.

Supply of Goods (Implied Terms) Act 1973 (c. 13)

- 16 In section 14(1) of the Supply of Goods (Implied Terms) Act 1973 (as originally enacted and as substituted by Schedule 4 to the Consumer Credit Act 1974) for " Section 11(1)(c) of the principal Act " substitute " Section 11(4) of the Sale of Goods Act 1979 ".
- 17 For the definition of " consumer sale" in section 15(1) of the Supply of Goods (Implied Terms) Act 1973 substitute—
- “" consumer sale" has the same meaning as in section 55 of the Sale of Goods Act 1979 (as set out in paragraph 11 of Schedule 1 to that Act).”

Consumer Credit Act 1974 (c.39)

- 18 In section 189(1) of the Consumer Credit Act 1974, in the definition of " goods", for " section 62(1) of the Sale of Goods Act 1893 " substitute " section 61(1) of the Sale of Goods Act 1979 ".

Status: This is the original version (as it was originally enacted).

Unfair Contract Terms Act 1977 (c. 50)

- 19 In section 6 of the Unfair Contract Terms Act 1977—
(a) in subsection (1)(a) for " section 12 of the Sale of Goods Act 1893 " substitute " section 12 of the Sale of Goods Act 1979 " ;
(b) in subsection (2)(a) for "section 13, 14 or 15 of the 1893 Act" substitute " section 13, 14 or 15 of the 1979 Act " .
- 20 In section 14 of the Unfair Contract Terms Act 1977, in the definition of " goods ", for " the Sale of Goods Act 1893 " substitute " the Sale of Goods Act 1979 " .
- 21 In section 20(1)(a) and (2)(a) of the Unfair Contract Terms Act 1977 for " 1893 " substitute (in each case) " 1979 " .
- 22 In section 25(1) of the Unfair Contract Terms Act 1977, in the definition of " goods ", for " the Sale of Goods Act 1893 " substitute " the Sale of Goods Act 1979 " .

SCHEDULE 3

Section 63.

REPEALS

Chapter	Short Title	Extent of Repeal
56 & 57 Vict. c. 71.	Sale of Goods Act 1893.	The whole Act except section 26.
1967 c. 7.	Misrepresentation Act 1967.	Section 4. In section 6(3) the words " , except section 4(2), " .
1967 c. 14 (N.I.)	Misrepresentation Act (Northern Ireland) 1967.	Section 4.
1973 c. 13.	Supply of Goods (Implied Terms) Act 1973.	Sections 1 to 7. Section 18(2).
1974 c. 39.	Consumer Credit Act 1974.	In Schedule 4, paragraphs 3 and 4.
1977 c. 50.	Unfair Contract Terms Act 1977.	In Schedule 3, the entries relating to the Sale of Goods Act 1893.

SCHEDULE 4

Section 63.

SAVINGS

Preliminary

- 1 In this Schedule references to the 1893 Act are to the Sale of Goods Act 1893.

Status: This is the original version (as it was originally enacted).

Orders

- 2 An order under section 14(8) or 25(4) above may make provision that it is to have effect only as provided by the order (being provision corresponding to that which could, apart from this Act, have been made by an order under section 192(4) of the Consumer Credit Act 1974 bringing into operation an amendment or repeal making a change corresponding to that made by the order under section 14(8) or 25(4) above).

Offences

- 3 Where an offence was committed in relation to goods before 1 January 1969 or (in the application of this Act to Northern Ireland) 1 August 1969, the effect of a conviction in respect of the offence is not affected by the repeal by this Act of section 24 of the 1893 Act.

1893 Act, section 26

- 4 The repeal by this Act of provisions of the 1893 Act does not extend to the following provisions of that Act in so far as they are needed to give effect to or interpret section 26 of that Act, namely, the definitions of " goods " and " property " in section 62(1), section 62(2) and section 63 (which was repealed subject to savings by the Statute Law Revision Act 1908).

Things done before 1 January 1894

- 5 The repeal by this Act of section 60 of and the Schedule to the 1893 Act (which effected repeals and which were themselves repealed subject to savings by the Statute Law Revision Act 1908) does not affect those savings, and accordingly does not affect things done or acquired before 1 January 1894.
- 6 In so far as the 1893 Act applied (immediately before the operation of the repeals made by this Act) to contracts made before 1 January 1894 (when the 1893 Act came into operation), the 1893 Act shall continue so to apply notwithstanding this Act.